

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

| | | |
|-------------------------------------------|---|-------------------------|
| IN RE: |) | Chapter 11 |
| |) | |
| THE KRYSTAL COMPANY, et al., ¹ |) | Case No. 20-61065 (PWB) |
| |) | |
| Debtors. |) | (Jointly Administered) |
| _____ |) | |
| RACHEL M. PRUETT, |) | |
| |) | |
| Movant, |) | |
| |) | |
| v. |) | CONTESTED MATTER |
| |) | |
| THE KRYSTAL COMPANY, |) | |
| |) | |
| Respondent. |) | |

OBJECTION TO THE CURE AMOUNT OF RACHEL M. PRUETT

Rachel M. Pruett, a landlord (“Landlord Pruett”) of The Krystal Company, files this Objection to the Cure Amount of Rachel M. Pruett in response to the Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases [Doc. 310] and states as follows:

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334.
2. This is a core proceeding under 28 U.S.C. § 457(b).
3. On January 19, 2020, Debtors filed for Chapter 11 Bankruptcy.
4. On February 12, 2020, Debtors filed a Motion to sell all assets [Doc. 148].
5. On March 4, 2020, the Court entered an Order approving all bidding and sale procedures of Debtors’ assets [Doc 227].

¹ The Debtors in these chapter 11 cases include: The Krystal Company; Krystal Holdings Inc.; and K-Square Acquisitions Co., LLC.

6. On March 12, 2020, Landlord Pruett filed a Motion for stay relief or alternatively for payment pursuant to 11 U.S.C. § 365(d)(3) [Doc. 270].
7. On April 7, 2020, the Debtors filed a Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases [Doc. 310] that provided for cure costs for each executory contract and unexpired lease which the Debtors may assume (“Notice”).
8. The Notice includes Exhibit A where the cure amount for Landlord Pruett’s lease is listed at the very top of page 24 of the document (or page 19 of 28 of Exhibit A) in the amount of \$5,856.40. The Notice fails to specify for what month this rental amount is owed. In the event that the amount specified in the notice is for pre- and post-petition January 2020 monthly rental installment, it is correct for the January 2020 rental installment. However, this amount does not provide for the payment of real property taxes due for 2019 in the principal amount of \$9,443.56 set forth at paragraph 5 of the Declaration of Rachel M. Pruett in Further Support of Motion of Landlord Rachel M. Pruett for Relief From the Automatic Stay Pursuant to 11 U.S.C. § 362(d) [Doc. 302]. The total cure amount as of April 27, 2020 is \$15,299.96. In addition, May 2020 rental is due on May 1, 2020 in the amount of \$5,856.40.
9. On April 20, 2020 this Court entered a Consent Order [Doc. 335] that requires the Debtor The Krystal Company to pay post-petition pro rata rent from January 19, 2020 to January 31, 2020 in the amount of \$2,455.96 within fourteen (14) days of the entry of the Order and also reserved Landlord Pruett’s request for payment of 2019 property taxes for hearing on May 13, 2020 at 11:00 a.m. The Consent Order

specifically does not “preclude Rachel M. Pruett from seeking other or further relief with respect to payment of rents for May 2020 and each month thereafter.”

WHEREFORE, Landlord Pruett respectfully requests the following:

- a. That this Court increase Debtors cure amount for Rachel M. Pruett to \$15,299.96 as of April 27, 2020 for the January 2020 rental installment of \$5,856.40 and 2019 real property taxes of \$9,443.56. In addition, May 2020 rental of \$5,856.40 is due on or before May 1, 2020.
- b. That this Court order Debtors to change the cure amount for Rachel M. Pruett to \$15,299.96 through April 27, 2020 plus an additional \$5,856.40 for May 2020 rent due May 1, 2020 in the documents provided to potential purchasers of Debtors’ assets; and
- c. Such other and further relief as this Court deems just.

Respectfully submitted,

GEARHISER, PETERS, ELLIOTT
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Attorney for Creditor Rachel M. Pruett

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2020, a copy of the foregoing Objection to the Cure Amount of Rachel M. Pruett was electronically filed and served via the Court's ECF filing system upon all parties registered to receive notice and listed on the attached mail notice list. Others listed on the attached mail notice list who do not receive notice of filing by operation of the Court's electronic filing system, and the parties listed below were served a copy of the foregoing Objection via first class U.S. Mail, with adequate postage prepaid.

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This 21st day of April, 2020.

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